

**Introduced by Senator Torlakson**

May 31, 2007

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Senate Constitutional Amendment No. 13—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 37 to Article XIII thereof, relating to taxation.

**LEGISLATIVE COUNSEL'S DIGEST**

SCA 13, as introduced, Torlakson. Taxation: cigarettes.

Existing laws set forth in the California Constitution and in statutory provisions either impose or authorize the imposition of state or local sales and use taxes upon the gross receipts from the sale within the taxing jurisdiction of, or the storage, use, or other consumption in this jurisdiction of, tangible personal property.

The Cigarette and Tobacco Products Tax Law imposes a tax on every distributor of cigarettes and tobacco products at specified rates, including additional taxes imposed under the Tobacco Tax and Health Protection Act of 1988 (Proposition 99), and the California Families and Children Act of 1998 (Proposition 10).

This measure would, commencing on or after the first day of the first calendar quarter commencing more than 90 days on or after the effective date of this measure, impose an excise tax on the distribution of cigarettes at the rate of \$0.105 for each cigarette distributed. The revenues collected from the additional tax would be deposited in the Tobacco Excise Tax Account and would be allocated, upon appropriation by the Legislature, for health-related purposes.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

1     *Resolved by the Senate, the Assembly concurring,* That the  
2     Legislature of the State of California at its 2007–08 Regular  
3     Session commencing on the fourth day of December 2006,  
4     two-thirds of the membership of each house concurring, hereby  
5     proposes to the people of the State of California, that the  
6     Constitution of the State be amended as follows:

7     That Section 37 is added to Article XIII thereof, to read:

8     SEC. 37. (a) In addition to any other tax imposed under the  
9     Cigarette and Tobacco Products Tax Law (Part 13 (commencing  
10    with Section 30001) of Division 2 of the Revenue and Taxation  
11    Code), or its successor statute, an excise tax is hereby imposed  
12    upon every distributor of cigarettes at the rate of one hundred five  
13    mills (\$0.105) for each cigarette distributed on and after the first  
14    day of the first calendar quarter commencing more than 90 days  
15    after the effective date of this section.

16    (b) (1) Every dealer and wholesaler, for the privilege of holding  
17    or storing cigarettes for sale, use, or consumption, shall pay a floor  
18    stock tax for each cigarette in his or her possession or under his  
19    or her control in this state at 12:01 a.m. on the first day of the first  
20    calendar quarter commencing more than 90 days after the effective  
21    date of this section at the rate of one hundred five mills (\$0.105)  
22    for each cigarette.

23    (2) Every dealer and wholesaler shall file a return with the State  
24    Board of Equalization (hereafter state board) on or before the first  
25    day of the first calendar quarter commencing more than 180 days  
26    after the effective date of this section on a form prescribed by the  
27    state board, showing the number of cigarettes in his or her  
28    possession or under his or her control at 12:01 a.m. on the first  
29    day of the first calendar quarter commencing more than 90 days  
30    after the effective date of this section. The amount of tax shall be  
31    computed and shown on the return.

32    (c) (1) Every licensed cigarette distributor, for the privilege of  
33    distributing cigarettes and for holding or storing cigarettes for sale,  
34    use, or consumption, shall pay a cigarette indicia adjustment tax  
35    for each California cigarette tax stamp that is affixed to any  
36    package of cigarettes and for each unaffixed California cigarette  
37    tax stamp in his or her possession or under his or her control at  
38    12:01 a.m. on the first day of the first calendar quarter commencing  
39    more than 90 days after the effective date of this section at the  
40    following rates:

1 (A) Two dollars and six hundred twenty-five mills (\$2.625) for  
2 each stamp bearing the designation “25.”

3 (B) Two dollars and ten cents (\$2.10) for each stamp bearing  
4 the designation “20.”

5 (C) One dollar and five cents (\$1.05) for each stamp bearing  
6 the designation “10.”

7 (2) Every licensed cigarette distributor shall file a return with  
8 the state board on or before the first day of the first calendar quarter  
9 commencing 180 days after the effective date of this section on a  
10 form prescribed by the state board, showing the number of stamps  
11 described in subparagraphs (A), (B), and (C), of paragraph (1).  
12 The amount of tax shall be computed and shown on the return.

13 (d) The taxes imposed under this section shall be administered  
14 and collected in accordance with the Cigarette and Tobacco  
15 Products Tax Law, or its successor statute.

16 (e) All revenues, less refunds, derived from a tax imposed  
17 pursuant to this section shall be transferred to the Tobacco Excise  
18 Tax Account, which is to be created in the General Fund and shall  
19 be allocated, upon appropriation by the Legislature, exclusively  
20 for the following purposes:

21 (1) Tobacco cessation services.

22 (2) Lung cancer research, especially research regarding early  
23 detection, prevention, and treatment methods.

24 (3) Health-related purposes.

25 (f) Revenues derived from the taxes imposed pursuant to this  
26 section are not proceeds of taxes within the meaning of Section 9  
27 of Article XIII B or State General Fund proceeds of taxes within  
28 the meaning of Section 8 of Article XVI.